

1  
2  
3  
4  
5  
6                   UNITED STATES DISTRICT COURT  
7                   WESTERN DISTRICT OF WASHINGTON  
8                   AT SEATTLE

9                   UNITED STATES OF AMERICA,

10                  Plaintiff

11                  v.

12                  ANTHONY PELAYO,

13                  Defendant.

CASE NO. CR18-217RSM

ORDER DENYING DEFENDANT  
PELAYO'S MOTION TO COMPEL  
PRODUCTION OF WITNESS & EXHIBIT  
LISTS

14                  This matter comes before the Court on Defendant Anthony Pelayo's Motion to Compel  
15 Production of Witness & Exhibit Lists. Dkt. #511.

16                  The Scheduling Order in this case, cited by Defendant Pelayo, states that “[t]he  
17 government is to produce its witness list and exhibit list related to its case-in-chief; the  
18 government is to produce Jencks Act, Rule 26.2, and Giglio impeachment materials, including  
19 information relating to known non-testifying declarants under Fed.R.Evid. 806 (if any), three  
20 weeks before trial.” Dkt. #389 at 2. Next to that entry is the date August 18, 2020. That date  
21 was based on a September 8, 2020, trial date. The Scheduling Order explicitly states “[i]f the  
22 trial date is continued, these dates will be reset by the equivalent number of days or weeks in  
23 advance of the new trial date.” *Id.* at 3.

1 Trial has now been set for June 21, 2021. Dkt. #611. The deadline above has now been  
2 extended to three weeks prior to this new trial date—May 31, 2021. Accordingly, the relief  
3 requested by Defendant is inconsistent with the Court’s Scheduling Order and unwarranted at  
4 this time.

5 The Court notes that given its own communications to all parties cited in Defendant  
6 Pelayo’s briefing and the circumstances at the time, Defendant understood that the trial date  
7 would be continued when the instant Motion was filed. The deadline at issue was explicitly tied  
8 to the trial date. The motivation for the instant Motion appears to have been gamesmanship rather  
9 than a genuine belief that the witness and exhibit lists were past-due. The Court expects more  
10 from experienced counsel.

12 Having reviewed the briefing, along with the remainder of the record, the Court hereby  
13 finds and ORDERS that the Defendant Anthony Pelayo’s Motion to Compel Production of  
14 Witness & Exhibit Lists, Dkt. #511, is DENIED.  
15

16 DATED this 25<sup>th</sup> day of February, 2021.  
17

18   
19 RICARDO S. MARTINEZ  
20 CHIEF UNITED STATES DISTRICT JUDGE  
21  
22  
23  
24  
25  
26  
27